

09-10-03

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Deposited: September 9, 2003

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By: Ruth Montalvo / Ruth Montalvo

Date: 09/09/03

Customer No. 026418

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Docket No. GK-ZEI-3140 / 500343.20141

Applicant(s): Reinhard JANKA, et al.

Serial No.: 10/009,287 Group:

Filed: November 6, 2001 Examiner:

For: METHOD AND SYSTEM FOR DETECTING THE LIGHT COMING FROM A SAMPLE

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**REQUEST TO WITHDRAW ABANDONMENT NOTICE**

Sir:

In response to the Notice of Abandonment mailed August 29, 2003 (copy enclosed), it is noted that the applicants have timely responded to the Decision on Petition under 37 CFR 1.137(b) mailed June 28, 2002 with regard to the discrepancy in the second inventor's last name.

Attached herewith are copies of the following:

1. Reply to Decision on Petition Under 37 C.F.R. 1.137(b) with properly executed Certificate of Express Mail on August 12, 2002; and
2. Return receipt postcard stamped August 12, 2002.

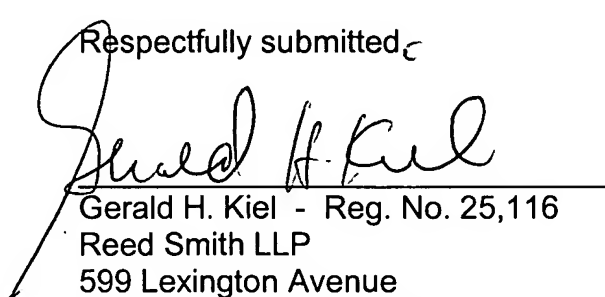
Based on the timely filing of the Response to the Decision on Petition as indicated above, it is respectfully requested that the holding of abandonment be withdrawn and the filing receipt for this case be issued.

The Commissioner is hereby authorized to charge any fee related to this submission, to *Deposit Account No. 50-1529*.

Respectfully submitted,

GHK:ram  
September 9, 2003

Tel. No. (212) 521-5400



Gerald H. Kiel - Reg. No. 25,116  
Reed Smith LLP  
599 Lexington Avenue  
New York, NY 10022-7650

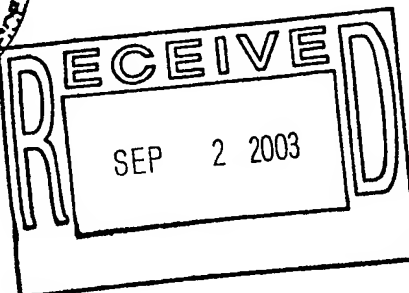
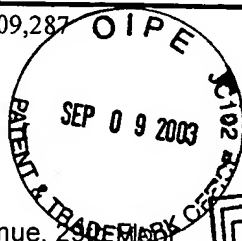


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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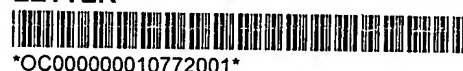
U.S. APPLICATION NUMBER NO. 10/009,287	FIRST NAMED APPLICANT Reinhard Janka	ATTY. DOCKET NO. GK-ZEI-3140 / 500343.2014
INTERNATIONAL APPLICATION NO. PCT/EP01/01663		
I.A. FILING DATE 02/15/2001		PRIORITY DATE

Gerald H Kiel  
Reed Smith  
599 Lexington Avenue, 29000  
New York, NY 10022



CONFIRMATION NO. 5952

371  
ABANDONMENT/TERMINATION  
LETTER



\*OC000000010772001\*

Date Mailed: 08/29/2003

## NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant don't reply with the Two Months time period of the Decision on Petition Dated 28 June 2002.

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Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

MAMIE P PERSON

Telephone: (703) 305-3737

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

EXPRESS MAIL mailing label No. **EV 168 021 236 US**

Date of Deposit 12 AUG 02

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

  
  
Ruth Montalvo

12 Aug 02  
Date

Docket No.: GK-ZEI-3140/500343.20141

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Customer No.: 026418

Applicant: Reinhard JANKA et al

Serial No. 10/009,287

Filed: November 6, 2001

For: METHOD AND SYSTEM FOR DETECTING THE LIGHT  
COMING FROM A SAMPLE

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**REPLY TO DECISION ON PETITION UNDER 37 C.F.R. 1.137(b)**

BOX PCT  
Commissioner for Patents  
Washington, D.C. 20231

Att: PCT Legal Office

Sir:

In the Decision on Petition in the above matter dated June 28, 2002, the PCT Legal Office has raised the question as to why the second inventor is listed as Volker JUNGEL in the published international application and Volker JUENGEL in the executed declaration filed 06 November 2001.

The named individual is the same person, and the discrepancy arises because the original presentation of his name in German uses an umlaut (two dots) over the U (Ü). Since an ordinary English type font does not have an umlaut, an alternative is to write "UE" as a

substitute for the German umlaut. This was done in the declaration filed 06 November 2001.

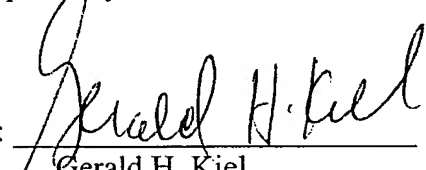
In the published version of the application, the typesetter apparently was unaware of the alternative "UE" and simply dropped the umlaut altogether, resulting in just a U. This was an incorrect presentation of this letter but accounts for the discrepancy.

In the event that a fee is due for this submission, the Commissioner is hereby authorized to charge any additional fees to Deposit Account No: 50-1529.

If the PCT Branch has any further question on this issue, please do not hesitate to contact the undersigned attorney.

Respectfully submitted,

By:



Gerald H. Kiel

Reg. No. 25,116

August 9, 2002  
REED SMITH LLP  
599 Lexington Avenue  
New York, NY 10022-7650  
GHK:jl



28 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

Gerald H. Kiel  
Reed Smith, LLP  
375 Park Avenue  
New York, NY 10152

In re Application of	:	
JANKA, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/009,287	:	
PCT No.: PCT/EP01/01663	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 February 2001	:	
Priority Date: 22 February 2000	:	
Attorney's Docket No.: GK-ZEI-3140	:	
For: METHOD AND SYSTEM FOR DETECTING	:	
THE LIGHT COMING FROM A SAMPLE	:	

This decision is in response to applicant's "Petition to Revive Pursuant to 37 CFR 1.137(b)" filed 06 November 2001 in the United States Patent and Trademark Office (USPTO). The petition fee of \$1280.00 has been provided.

### BACKGROUND

On 15 February 2001, applicant filed international application PCT/EP01/01663, which claimed priority of an earlier application filed 22 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 22 October 2001.

On 06 November 2001, applicant filed the present petition.

### DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

**DOCKET**

*Aug. 28, 2002 Reply Deadline on Inventor Name*

With regard to Item (1), the required reply is the payment of the Basic National Fee under 37 CFR 1.492(a). Applicant has provided a check covering payment of the fee.

As to Item (2) the appropriate petition fee of \$1280.00 as required by 37 CFR 1.17(m) has been authorized to be deducted from Deposit Account No.: 50-1529.

With regard to Item (3), applicant's statement that, "Abandonment was unintentional, the national phase application was overlooked and was not timely filed" is being interpreted to mean that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

It is noted that the second inventor is listed as Volker JUNGEL in the published international application and Volker JUENGEL on the executed declaration filed 06 November 2001. This raises the question as to whether this discrepancy is the result of a typographical error or a name change. In order to continue processing of the application applicant is required to provide an explanation for this discrepancy. If the discrepancy is the result of a name change, a petition under 37 CFR 1.182 is required. See MPEP 605.04(c) for further requirements.

### CONCLUSION

Applicant's petition for revival pursuant to 37 CFR 1.137(b) is GRANTED.


As authorized, \$260.00 will be deducted from Deposit Account 50-1529. (\$130.00 for payment of the surcharge for providing an oath or declaration of the inventors later than twenty months from the earliest claimed priority date and \$130.00 as payment of the processing fee for providing an English translation of the International Application later than twenty months from the earliest claimed priority date.)

Applicant is hereby afforded TWO MONTHS from the mail date of this decision to furnish the proper reply as indicated above. Failure to file the reply within the time period provided will result in abandonment. Extensions of time may be obtained under 37 CFR 1.136(a).

Application No.: 10/009,287

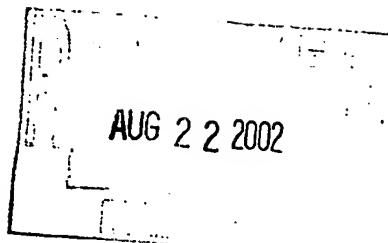
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Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office



Derek A. Putonen  
Petitions Attorney  
PCT Legal Office  
Tel: (703) 305-0130  
Fax: (703) 308-6459





Express Mail # EV 168 021 236 US August 12, 2002  
DUE DATE: AUGUST 28, 2002

BOX PCT

GK-ZEI-3140 / 500343.20141  
Reinhard JANKA, et al.  
10/009,287  
11/06/01

This to acknowledge receipt of the following:  
REPLY TO DECISION ON PETITION under 37 CFR 1.137(b)  
with copy of 28JUN02 Decision

DTDS Rec'd PCT/PTO 12 AUG 2002

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